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IT IS SO ORDERED THAT:

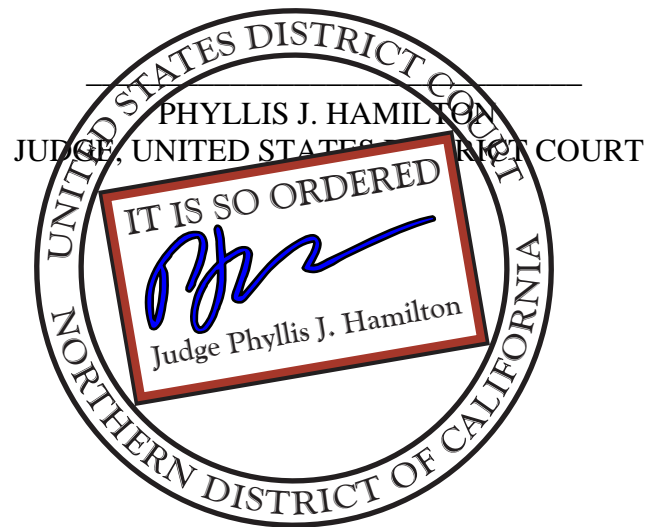
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2 1. Based on the Stipulation of the Parties, the Court hereby orders that Plaintiff may file  
3 his First Amended Complaint forthwith without a motion for leave;

4 2. The filing of Plaintiff's First Amended Complaint is without prejudice as to the  
5 respective rights of the Defendants to answer or file motions challenging the merits of the claims set  
6 forth in the First Amended Complaint;

7  
8 3. Defendant Metropolitan Life Insurance Company shall file its Response within 14 days  
9 of the date counsel for said Defendant is served electronically with the First Amended Complaint; and

10 4. Defendant Morgan Stanley Smith Barney LLC (appearing as Morgan Stanley & Co.,  
11 Inc.) shall file its Response within 45 days of the date counsel for said Defendant is served electronically  
12 with the First Amended Complaint.

13  
14 Date: April 12, 2011



**PROOF OF SERVICE BY ELECTRONIC SERVICE**

I am employed in the County of San Francisco, State of California.

I am over the age of 18 and not a party to the within action; my business address is 1388 Sutter Street, Suite 820, San Francisco, California 94109.

On April 8, 2011, I served the foregoing documents described as:

1. **STIPULATION FOR PLAINTIFF TO  
FILE FIRST AMENDED COMPLAINT WITH  
FIRST AMENDED COMPLAINT ATTACHED AS EXHIBIT A; and**
2. **[PROPOSED] ORDER RE STIPULATION TO FILE  
FIRST AMENDED COMPLAINT**

on the interested parties in this action by causing said document to be transmitted using ECF and by placing true copies thereof enclosed in sealed envelope(s) addressed as follows:

Rebecca Hull, Esq.  
Erin Cornell, Esq.  
Sedgwick, LLP  
One Market Plaza  
Steuart Tower, 8<sup>th</sup> Fl  
San Francisco, CA 94105-1008

Mark Boennighausen, Esq.  
Law Offices of Steven A. Ellenberg  
4 North Second Street, Suite 1240  
San Jose, CA 95113

**ATTORNEY FOR DEFENDANT  
MORGAN STANLEY**

**ATTORNEYS FOR DEFENDANT  
METROPOLIRTAN LIFE INSURANCE  
COMPANY**

☐ **BY MAIL.** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at San Francisco, California in the ordinary course of business.

☐ **BY PERSONAL SERVICE.** I caused to be delivered such envelope by hand to the offices of the addressee.

☒ **BY ELECTRONIC MAIL.** The parties to this action who have submitted their email addresses to the Court's Electronic Case Filing (ECF) system received the forgoing document electronically.

Executed April 8, 2011 at San Francisco, California.

☒ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☐ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

By /s/ Freshta Maftoon  
FRESHTA MAFTOON